IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-263

COMMISSIONER OF INTERNAL REVENUE,
Petitioner

v.

IDAHO POWER COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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* A copy of the Tax Court's Memorandum Findings of Fact and Opinion was filed as Appendix A to the Petition (Pet. 10-19). The opinion of the Court of Appeals and that court's Order for Amendment of Opinion was reproduced as Appendix B to the Petition (Pet. 20-37). The Court of Appeals' Judgment was reproduced as Appendix C to the Petition (Pet. 38).

TAX COURT OF THE UNITED STATES

General Docket

Docket No. 4012-67

IDAHO POWER COMPANY
M. M. Ilch, Treas.
1220 Idaho St.
Boise, Idaho 83701
PETITIONER

vs.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

APPEARANCES FOR PETITIONER:

Norton Kern and Lawrence C. Wilson (Reid & Priest), Two Rector St., New York, New York 10006.

RELEVANT DOCKET ENTRIES

DATE	FILINGS AND PROCEEDINGS
Aug. 9, 1967	PETITION FILED: FEE PAID Aug. 9, 1967.
	* * * *
Sept. 28, 1967	ANSWER filed by Respondent.
	* * * *
April 1, 1969	TRIAL at Portland, Oregon before Judge Scott.
	Stipulation of facts, together with joint Exhibits—FILED.
	ORIG. BRIEFS DUE: July 30, 1969.
	REPLY BRIEFS DUE: August 29, 1969
	SUBMITTED TO THE COURT

RELEVANT DOCKET ENTRIES

DATE	FILINGS AND PROCEEDINGS
Apr. 18, 1969	TRANSCRIPT of trial proceedings Apr. 1, 1969, received.
May 27, 1969	STIPULATION of Correction of Report of Trial Proceedings filed by the parties.
July 21, 1969	ORIGINAL BRIEF for Petitioner. (20 P. Copies).
July 30, 1969	ORIGINAL BRIEF for Respondent filed.
Aug. 28, 1969	REPLY BRIEF for Petitioner filed. (20 P. Copies).
Aug. 29, 1969	REPLY BRIEF for Respondent filed.
April 13, 1970	MEMORANDUM FINDINGS OF FACT AND OPINION filed Judge Scott Decision will be entered for the respondent.
April 23, 1970	DECISION entered Judge Scott.
	APPELLATE PROCEEDINGS
June 29, 1970	MOTION to fix bond filed by Petr.
June 29, 1970	ORDER fixing amount of bond at $192,637.43.
July 20, 1970	Surety bond in the amount of $192,637.43 with General Insurance Co. of America, as surety, approved and ordered filed.
July 20, 1970	NOTICE of Appeal to U.S.C.A., 9th Cir., filed by Petr.
July 20, 1970	NOTICE of filing with copy of notice of appeal sent to K. Martin Worthy, Chief Counsel.
July 20, 1970	NOTICE, to parties, of assembling and date for transmission of the record.

IN THE COURT OF APPEALS FOR THE NINTH CIRCUIT

RELEVANT DOCKET ENTRIES

DATE	FILINGS AND PROCEEDINGS
Aug. 28, 1970	FILED CERTIFIED CERT TRANSC OF RECORD ON APPEAL IN 2 VOLS: VOL. 1, PLEADINGS, VOL. 2, RPTR's TRANSC., ORIGS ONLY. FILED ORIG EXHIBITS IN LPS * * * DOCKET FEE PAID, CAUSE DOCKETED & ENTERED APPEARANCES OF COUNSEL.
Oct. 2, 1970	FILED TWO ADD'L COPIES OF VOLS. I & II OF RECORD: 85 pp.
Oct. 2, 1970	BRIEF TIME SET Nov. 12.
Dec. 7, 1970	FILED 26 APPELLANTS BRIEFS.
Feb. 1, 1971	Recvd. prae & entered appearance of counsel for appellee-CIR.
Feb. 1, 1971	FILED 25 APPELLEES BRIEFS.
Feb. 19, 1971	FILED 25 APPELLANTS REPLY BRIEFS.
Sept. 26, 1971	Recvd orig & 3 Applt's add'l citations. ps (T Cy McGov).
Oct. 10, 1972	ARGUED AND SUBMITTED BEFORE TRASK, CHOY, C.J.J., WALTER T. MC GOVERN, D.J., SEATTLE, WASHINGTON.
Apr. 10, 1973	ORDERED OPINION (TRASK) FILED & JUDG TO BE FILED & ENTD (jn).
Apr. 10, 1973	Filed opinion—Reversed (Amended by order 4/30/73).
Apr. 10, 1973	Filed & Entered Judgment (jn).
Apr. 30, 1973	Filed order (T, Cy, McGovern) amending opinion filed 4/10/73, by adding new paragraph to page 7 of slip opinion. (s)

RELEVANT DOCKET ENTRIES

DATE	FILINGS AND PROCEEDINGS
May 1, 1973	Issued judgment to Clerk, Txx Ct.
July 16, 1973	Recvd. copy of SC letter dated 7/12 re: Justice Douglas extending time to file pet for writ of cert to and including August 8, 1973.
Aug. 14, 1973	Recvd. SC notice re filing pet for cert. 8/8 SC# 73-263. aba.

TAX COURT OF THE UNITED STATES

Docket No. 4012-67

IDAHO POWER COMPANY, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

PETITION

The above-named petitioner hereby petitions for a redetermination of the deficiencies set forth by the Commissioner of Internal Revenue in his notice of deficiency (service symbols Ap:P:AA:HH 90-D:VEV) dated May 19, 1967, and as a basis of its proceedings alleges as follows:

1. The petitioner is a corporation organized under the laws of the State of Maine with its principal office at 1220 Idaho Street, Boise, Idaho. The returns for the years here involved were filed with the District Director of Internal Revenue, Boise, Idaho.

2. The notice of deficiency (a copy of which is attached hereto and marked Exhibit A) was mailed to the petitioner on May 19, 1967.

3. The deficiencies as determined by the Commissioner are in income taxes and are in the amounts of $73,023.47 and $50,342.21 for the years 1962 and 1963, respectively. The full amounts of the deficiencies listed above for the years 1962 and 1963 are in dispute, and in addition, petitioner asserts its claim to any refund, together with interest as allowed by law, to which it may be entitled for such years upon decision in this case.

4. The determination of tax set forth in the said notice of deficiency is based upon the following error:

(a) The Commissioner erroneously disallowed a part of the depreciation deductions on mobile transportation and power operated equipment and on communications equipment owned and operated by the petitioner, in the